



City of Albuquerque

Legislative File Number AC-06-1 (version 1)

INTER-OFFICE MEMORANDUM

December 16, 2005

TO: Martin Heinrich, President, City Council

FROM: Richard Dineen, Planning Director
AC-06-1 - 04DRB-01344, Project #1003096 - Michelle Garcia & Joseph Garcia, appeal the decision of the Development Review Board to approve a Preliminary Plat for all or a portion of Lot(s) 53 - 58, J.M. Moore Realty Company Subdivision, Unit No. 1, zoned S-R, Sawmill Residential, and S-MRN, Sawmill Mountain Road Neighborhood, located on the northwest corner of the intersection of, between 8th St NW and Mountain Rd NW, containing approximately .3 acre. Sheran Matson, DRB Chair. (J-14)

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BACKGROUND: The replat of portions of Lots 53 - 55 and Lots 56 - 58 into Lots 53-A, 54-A, 57-A and 58-A was heard and approved as a minor subdivision at the September 15, 2004 Development Review Board (DRB) meeting. The replat was classified as a minor subdivision as defined in Section 14-14-1-6 of the Subdivision Ordinance. Section 14-14-3-(C) of the Subdivision Ordinance allows for DRB approval of a minor subdivision without notice or public hearing similar to most building permits or right-of-way projects. The DRB approves minor subdivisions at their public meetings; agendas are posted on the City Public Hearing

Board outside the DRB hearing room, and on the City website at least 72 hours prior to the public meeting dates.

DRB RESPONSE TO APPEAL:

1. The property owners of record at the Bernalillo County Treasurer's Office for 811 Mountain Road, NW, the "affected property" referenced in the appeal, are Joseph and Michelle Garcia. The Garcias are the appellants.

The Subdivision Ordinance, Section 14-14-8-2(A), gives persons who own property within 300 feet of the subject site standing to appeal. The appellants meet this test. (SEE EXHIBIT A)

2. Section 14-14-8-4 of the Subdivision Ordinance allows persons with standing to appeal a DRB determination to the City Council or Land Use Hearing Officer by submitting a written application. The appellant must submit the appeal application to the Planning Director within 15 days after the date of the City's (DRB's) decision. (SEE EXHIBIT B)

In this case, the Appellants submitted the appeal application on November 28, 2005, over a year past the 15 day appeal period following the September 15, 2004, DRB decision on the replat.

The Appellants have failed to file a timely appeal pursuant to this Section of the Subdivision Ordinance. Therefore, the appeal should be denied.

APPROVED:

Jack Cloud, Interim Manager
Development Review Division
Planning Department

